OUTLINE OF ARGUMENT

PAGE

Motion 1
Statement of the Case 2
Argument:

I. Neither the law nor the regulations promulgated pursuant thereto require that such aliens as the petitioning wives herein shall present immigration visas as a condition precedent to admission 3

1. Provisions relating to aliens ineligible to citizenship constitute a system of exclusion intended to be separate and distinct from that constituted by the provisions prescribing quotas and specifying the method of keeping accurate current account of the state of such quotas 4

2. By the highest executive authority, exercised immediately after the enactment of the statute, the law was so construed and applied as to make it unnecessary, indeed impracticable, for petitioners herein to obtain immigration visas 6

II. The Act, if construed reasonably, in accordance with its plain intent, in such manner as to effectuate its real objects, and so as to avoid absurd, oppressive, discriminatory, and inhumane results, can not be regarded as changing the long-established policy and practice of permitting alien Chinese wives and mothers of American citizen husbands and children to enter and reside in the United States with such citizen husbands and children 9

1. Statutes should be so construed as to effectuate their known objects, but not so as to produce unintended, absurd, oppressive, discriminatory, or inhumane results.

The spirit and purposes should be ascertained and followed..... 10

2. The real object of the Law..... 10

3. Congress intended the Law to be a humane measure..... 14

4. The construction for which the Government contends would result, not in effectuating, but in hindering, the attainment of the main object of the law.... 16

5. The construction contended for by the Government would produce unintended, absurd, oppressive, discrimnatory, and inhumane results..... 18

6. There are ample judicial precedents for construing immigration laws in the manner urged..... 22

7. Certain decisions which do not constitute precedents for, but are distinguishable from, the case at bar..... 30

8. Sections 5 and 25 do not affect petitioners' status..... 33

III. The certified questions should be answered in the negative..... 35

TABLE OF CASES CITED

PAGE

Aird, Ex parte, 276 Fed., 954 28
Anderson vs. Watts, 138 U. S., 694, 706 19
Chang Chan, et al., vs. Nagle (case at bar), 2 Fed. (2d), 995, 998, 999 ..... 2, 16, 18
Chiu Shee, Ex parte, 1 Fed. (2d), 798, 799-800 ..... 16, 18 31
Chung Fook vs. White, 264 U. S., 443 30
Chung Toy Ho, In re, 42 Fed., 398 25
Church of the Holy Trinity vs. United States, 143 U. S., 457, 460-461 ..... 10, 27, 28
Commissioner of Immigration vs. Gottlieb, 265 U. S., 310 ..... 31, 32
Goon Dip, et al., Ex parte, 1 Fed. (2d), 811, 813 .. 16
Gouthro, Ex parte, 296 Fed., 506 29
Lau Ow Bew vs. United States, 144 U. S., 47, 59 .. 10, 24
Lee Kan vs. United States, 62 Fed., 914 25
Low Wah Suey vs. Backus, 225 U. S., 460 30
Scharrenberg vs. Dollar Steamship Company, 229 Fed., 970; also 245 U. S., 122 28
Tatsukichi Kuwabara vs. United States, 260 Fed., 104 28
Tom Hong vs. United States, 192 U. S., 517 25
Tsoi Sim vs. United States, 116 Fed., 920, 923, 925, 926-927 ..... 19, 22, 23
United States vs. Gay, 95 Fed., 226 28
United States vs. Gue Lim, 176 U. S., 459, 464, 467 ..... 10, 25
United States vs. Kirby, 7 Wall., 482, 486 ..... 10, 22
United States vs. Union Bank of Canada and United States vs. Royal Dutch West India Mail Company, 262 Fed., 91 ..... 28, 29
United States vs. Wong Kim Ark, 169 U. S., 649 . 17, 18
Zartarian vs. Billings, 204 U. S., 170 ..... 20, 31

OTHER AUTHORITIES

PAGE

Acts of Congress:
- Chinese Exclusion Act of 1882-1884 (23 Stat. L. 115), Sec. 6 24
- Chinese Exclusion Act of 1893 (28 Stat. L., 7), Sec. 2 24
- Contract Labor Law of 1885 (23 Stat. L., 332) 27
- Expatriation Act of 1907 (34 Stat. L., 1228), Sec. 5 20
- Immigration Act of 1924 (43 Stat. L., 153, c. 190):
  - Sec. 2 5
  - Sec. 4 ..... 3, 14, 19, 20, 34
  - Sec. 5 ..... 5, 33, 35
  - Sec. 6 5
  - Sec. 7 5
  - Sec. 8 5
  - Sec. 9 ..... 2, 5
  - Sec. 11 5
  - Sec. 12 ..... 6, 7
  - Sec. 13 ..... 2, 3, 5, 10, 16, 26, 35
  - Sec. 14 15
  - Sec. 18 5
  - Sec. 25 ..... 32, 34, 35
  - Sec. 28 32
- Revised Statutes:
  - Sec. 1993 ..... 17, 18, 20, 26
  - Sec. 2172 20

Circulars:
- Bureau of Imm'n Circular of July 1, 1924, entitled "Chinese Rules and Regulations under the Immigration Act of 1924" 8
- Bureau of Imm'n Circular of August 7, 1924, entitled "Chinese General Order No. 4" 8
- Constitution of the United States, Art. 14, Sec. 1 21

Congressional Bills:

H. R. 6540, 68th Cong., 1st sess..... 11, 14
H. R. 7995, 68th Cong., 1st sess..... 11, 14
S. 2576, 68th Cong., 1st sess..... 11, 14

Congressional Record, Vol. 65:

Part 6; pp. 5411, 5466-5467, 5649, 5661, 5741-5743, 5806; also Senate debates of April 7, 8, 9, and 14.....12, 13, 15
Part 7; pp. 6377-6378, 6460, 6642..... 12, 15

Congressional Reports:

H. R. Report No. 176, 68th Cong., 1st sess., p. 2 14
H. R. Report No. 350, 68th Cong., 1st sess., p. 6 11, 14
H. R. Report No. 716, 68th Cong., 1st sess..... 14

Proclamation of the President No. 1703, dated June 30, 1924..... 7, 9
Treaty with China of 1880 (22 Stat. L., 826), Art II..... 25

IN THE

Supreme Court of the United States

October Term, 1924

CHANG CHAN *et al.*,

vs.

JOHN D. NAGLE, as Commissioner of Immigration for the Port of San Francisco. } No. 770.

MOTION FOR LEAVE TO FILE BRIEF AS AMICUS CURIAE;

Also

BRIEF SHOWING THAT QUESTIONS CERTIFIED BY THE CIRCUIT COURT OF APPEALS FOR THE NINTH CIRCUIT SHOULD BE ANSWERED IN THE NEGATIVE.

Now comes A. WARNER PARKER, an attorney and counselor of this Court, and represents that there are involved in the above entitled case questions arising under the Immigration Act of 1924 (43 Stat. L., 153, c. 190), certified to this Court under Sec. 239 of the Judicial Code, answers to which may vitally affect the status and interests of a number of his clients, as such clients would be injured by a decision affirming either the decision of the administrative officials of the Government or the decision of the District Court, Northern District of California, in the above entitled case.

Therefore, he prays leave to file a brief and argument as *Amicus Curiae,* to the end that the questions certified by the Circuit Court of Appeals for the Ninth Circuit may be answered in the negative. He is permitted by counsel for the petitioners and for the Government herein, respectively, to say that they have no objection to the granting of such leave.

The brief and argument proposed to be submitted follows:

STATEMENT OF THE CASE

The several petitioners (appellants) herein are Chinese wives of American citizens of Chinese descent. Their husbands reside in the United States. Petitioners were refused admission by the immigration officials at San Francisco because those officials conceived that they were "inadmissible, as section 13 of the Act of 1924 mandatorily excludes the wives of United States citizens of the Chinese race if such wives are of a race or [are] persons ineligible to citizenship." (Rec., p. 2.) Their finding was affirmed by the Secretary of Labor.

The District Court, Northern District of California, on fully reviewing the law applicable to the case and the reasons underlying such law, expressed disapproval of the finding of the immigration officials and Secretary of Labor, and held that petitioners would have been entitled to admission had their husbands complied with the provisions of subdivisions (b), (c), and (d) of section 9 of the act and in that manner obtained for petitioners from an American consul the immigration visa specified by the law [sections 13 (a) and 9]; and upon that ground only declined to grant a writ of habeas corpus [2 Fed. (2d), 995, 999].

Thereupon, the case was appealed to the Circuit Court of Appeals, Ninth Circuit, which Court then certified to this Court the following questions:

> "1. Should the petitioners be refused admission to the United States either,
>
> (a) Because of the want of a visa; or
>
> (b) Because of want of right of admission if found to be Chinese wives of American citizens?" (Rec., p. 4.)

The theory upon which the Court below proceeded evidently is that the Immigration Act of 1924 requires, as a condition precedent to admission, that each and every alien shall present an immigration visa, irrespective of whether the case of such alien falls within the quota-visa excluding clause [section 13 (a)], or merely within the ineligible-to-citizenship excluding clause [section 13 (c)]. Hence the first question.

The theory upon which the immigration officials excluded petitioners seems to be that, inasmuch as the ineligible-to-citizenship excluding clause [section 13 (c)], when making cross-references to certain exceptions to the quota-visa excluding system set up in section 4 of the act, does not include in such cross-references subdivision (a) of that section referring specifically to the wives of American citizens, the law can not be construed as continuing in force the practice which has heretofore obtained, under the Chinese exclusion laws, of admitting the Chinese wives of American citizens. Hence the second question.

POINT I

Neither the law nor the regulations promulgated pursuant thereto require that such aliens as the peti-

tioning wives herein shall present immigration visas as a condition precedent to admission.

Consideration of the 1924 Act casually and without attempting to analyze its various provisions or to apply them to practical situations might lead to the conclusion that the law is arranged in a remarkably logical manner and is unusually artistic and terse in composition. But if careful analysis and practical application are attempted, it immediately becomes apparent that clearness of expression and certainty of terms have been sacrificed to sequence, brevity, and artistic effects. Therefore, it is necessary in cases such as this to look thoroughly into the objects intended to be accomplished and the systems of regulation intended to be applied to their accomplishment. When the law is so examined, it becomes clearly apparent that—

Provisions relating to aliens ineligible to citizenship constitute a system of exclusion intended to be separate and distinct from that constituted by the provisions prescribing quotas and specifying the method of keeping accurate current account of the state of such quotas.

Failure to make proper distinctions in concrete cases, such as the one at bar, between aliens falling within these two main and separate sets of provisions must necessarily lead to erroneous decisions—as it has in the present instance.

The two systems of exclusion set up by the act may be described as the quota-visa system and the ineligible-to-citizenship system, respectively. For the purposes of the former, the expressions "immigrant," "non-immigrant," "quota-immigrant," and "non-quota immigrant" are fre-

quently used, and are carefully defined. In providing for exclusion under the other system, however, the word "immigrant" is not used [section 13 (c)], but the same word as has been used in previous immigration laws when describing excluded persons is employed, to wit, the word "alien."

It is apparent on the face of the statute that the provisions with regard to immigration visas are indissolubly interlocked with those establishing quotas and specifying the methods of their determination and their effects. Immigration visas are to be procured by immigrants, and issued by consuls, respectively, because Congress concluded that the best way of keeping accurate and current account of the reductions occurring from day to day in the various quotas, and of insuring that aliens claiming to be non-quota immigrants are really of that status, would be to require, as a condition precedent to admission, that every immigrant within the reach of the quota-visa provisions of the law should, when coming to a port of the United States, be in possession of a visa (quota or non-quota) issued by the appropriate consul abroad. This conclusion must be drawn from such provisions of the statute as the opening clauses of section 2, section 5, the first two clauses of section 6, subdivision (a) and clause 2 of subdivision (b) of section 7, section 8, the opening clauses of subdivisions (a), (b) and (e) of section 9, subdivision (f) of section 9, subdivisions (a) and (f) of section 11, subdivisions (a) and (e) of section 13, and section 18. A sufficient illustration is subdivision (f) of section 11, reading as follows:

> "(f) There shall be issued to quota immigrants of any nationality (1) no more immigration visas in any fiscal year than the quota for such nationality,

> and (2) in any calendar month of any fiscal year no more immigration visas than 10 per centum of the quota for such nationality, except that if such quota is less than 300 the number to be issued in any calendar month shall be prescribed by the Commissioner General, with the approval of the Secretary of Labor, but the total number to be issued during the fiscal year shall not be in excess of the quota for such nationality."

This clearly shows that quotas and visas are interdependent features of the law—*no quotas, no field of operation for visas; no visas, no accurate current account of quotas.*

While the act contains no statement, in so many words, that the quota-visa system is not to be applied to countries the nationals of which belong to races ineligible to citizenship, the inference that such is the intent of the law is inescapable.

By the highest executive authority, exercised immediately after the enactment of the statute, the law was so construed and applied as to make it unnecessary, indeed impracticable, for petitioners herein to obtain immigration visas.

Strange as it may seem with the fact existing that several cases have already gone before the courts because the administrative officials have insisted upon applying the quota-visa provisions to ineligible-to-citizenship aliens, the highest executive officials of the Government have, from the very outset, construed the law as carrying the inescapable inference to which allusion has been made.

By subdivision (b) of section 12 it is made the duty of the Secretary of State, the Secretary of Commerce, and the Secretary of Labor, jointly, to prepare the figures

on which the annual quotas under the law shall be based; and by subdivision (e) of section 12 it is made the duty of those three officials, jointly, to report annually to the President the quota allotted to each nationality. By the same subdivision it is made the duty of the President to "proclaim and make known the quotas so reported." Immediately upon the passage of the 1924 Act the said three Secretaries established quotas in the manner so prescribed, and on June 30, 1924, the President issued a proclamation putting such quotas into effect.

By that proclamation the three Secretaries concerned and the President have placed upon the act the construction necessitated by the inescapable inference mentioned. Quotas based upon the census of 1890 are established for countries the nationals of which are eligible to citizenship. But for the countries of Asia and the adjacent islands, the nationals of which are ineligible to citizenship, nominal quotas of 100 each are established. Explaining this, the President states:

> "For each of the countries indicated by an asterisk (*) is established a nominal quota according to the minimum fixed by law. These nominal quotas, as in the case of all quotas, hereby established, are available only for persons born within the respective countries who are eligible to citizenship in the United States and admissible under the immigration laws of the United States." (Proclamation No. 1703, dated June 30, 1924, entitled "[Immigration Quotas]".)

Taking China to illustrate the matter, this appears: The President's proclamation assigns to China a nominal quota of 100, with the explanation that such quota is established solely for the purpose of caring for the (nec-

essarily rare) cases of eligible-to-citizenship aliens born in China. (*If China were entitled to a regular quota it would have to be about 2000,* for the Chinese population of the United States in 1890 was approximately 100,000.) If a white or a black quota alien migrates from China to the United States, such person must be counted against the nominal quota of 100; and, of course, such an alien must secure a quota visa before migrating—otherwise no accurate current account could be kept of the condition of the nominal quota. But when a Chinese person migrates from China to the United States, there is no quota against which such person can be charged, hence it would be, not only superfluous, but foolish because utterly useless, to require such person to procure an immigration visa.

Yet, in the face of this obviously correct executive construction, when the Commissioner General of Immigration, with the approval of the Secretary of Labor, issued regulations with regard to the application of the new law to Chinese (Bureau of Immigration Circular, of July 1, 1924, entitled "Chinese Rules and Regulations under the Immigration Act of 1924"; Bureau of Immigration Circular of August 7, 1924, entitled "Chinese General Order No. 4"), the attempt was made so to put the law into operation as to apply the visa requirements to practically all aliens ineligible to citizenship coming from China. Consequently a number of Chinese have been excluded because they did not possess the immigration visa specified by the quota-visa provisions.

It is apparent that the attention of the court below was not called to the circumstances just set forth; otherwise that court would scarcely have gone so far as to invoke against the petitioners provisions which had not been

availed of in this particular case by the administrative officials and which the highest executive officials had made it impossible for petitioners lawfully or regularly to observe.

Tersely stated, the matter stands thus: Three Cabinet officials and the President are charged by the law with the duty of making up and promulgating the quotas for the various countries, against which quota visas are to be issued by the appropriate consular officers. In the discharge of that duty, the President, upon the advice of his Cabinet officials, reaches the conclusion that the law does not contemplate that a quota shall be assigned to any country (such as China) the nationals of which are excluded independently of the quota-visa system and simply because they are ineligible to citizenship—are excluded by a separate and more far-reaching system. The President then issues a proclamation applying the law in that manner. In the face of this situation, to exclude from the United States for lack of visa aliens coming from that country, for whom no quota is provided by the law as proclaimed by the President, and with respect to whom there was, therefore, no occasion or authority for consuls to issue visas, would seem to be too patently unfair and illegal to require further comment.

POINT II

The act, if construed reasonably, in accordance with its plain intent, in such manner as to effectuate its real objects, and so as to avoid absurd, oppressive, discriminatory, and inhumane results, can not be regarded as changing the long-established policy and practice of permitting alien Chinese wives and moth-

ers of American citizen husbands and children to enter and reside in the United States with such citizen husbands and children.

1. Statutes should be so construed as to effectuate their known objects, but not so as to produce unintended, absurd, oppressive, discriminatory, or inhumane results. The spirit and purposes should be ascertained and followed.

This Court, in the case *United States vs. Kirby, 7* Wall., 482, 486, laid down the fundamental principle that——

> "All laws should receive a sensible construction. General terms should be so limited in their application as not to lead to injustice, oppression, or an absurd consequence. It will always, therefore, be presumed that the legislature intended exceptions to its language, which would avoid results of this character. The reason of the law in such cases should prevail over its letter."

Numerous similar decisions might be cited, but it will suffice to refer to:

> *Church of the Holy Trinity vs. United States,* 143 U. S., 457, 460-461.
> *Lau Ow Bew vs. United States,* 144 U. S., 47, 59.
> *United States vs. Mrs. Gue Lim,* 176 U. S., 459, 467.

2. The real object of the law.

Consideration of the history of section 13 (c) of the Immigration Act of 1924 discloses that the purpose Con-

gress had in view in enacting such section was to prevent the creation and continuance in this country of communities or "colonies" composed of aliens who could never become, under our Constitution and laws, citizens of the Republic. The provision originated with the House Committee on Immigration. It appeared first as sub-division (b), section 12, of the original House Bill (H. R. 6540, 68th Congress, 1st Session); and then was incorporated, again as subdivision (b) of section 12, in the second bill reported by the House Commitee (H. R. 7995), which was eventually passed by the House. It did not appear in the Senate bill (S. 2576), as introduced by Senator Reed of Pennsylvania, or as reported by the Senate Immigration Committee, section 10 of which measure related to exclusion. When reporting the bill the House Committee, after alluding to decisions of this Court regarding the ineligibility for naturalization of certain Orientals, stated with respect to this particular provision:

> "All must agree that nothing can be gained by permitting to be built up in the United States colonies of those who can not, under the law, become naturalized citizens, and must therefore, owe allegiance to another government." (H. R. Report No. 350, 68th Congress, 1st Sess., p. 6.)

Persistent efforts were made while the Senate bill (eventually merged with the House bill) was pending before the Senate to have an amendment adopted incorporating therein the ineligible-to-citizenship provision. Senator Shortridge of California introduced the amendment. To him, the proponent and chief advocate thereof in the Senate, it is natural to look for an explanation of its purposes. The debates show clearly that, for some time after its introduction, but very little sentiment in

its favor could be developed. (See Congressional Record, Vol. 65, pt. 6, Senate debates of April 7, 8, 9, and 14.) But eventually a marked change of feeling took place, as the result of the making public of the famous "serious consequences" letter written by the Japanese Ambassador to the Secretary of State. Then Senator Reed of Pennsylvania, managing the bill, reported an amendment of the same character as that previously suggested by Senator Shortridge and corresponding in every substantial respect with the similar House provision excluding aliens ineligible to citizenship, which amendment was adopted by a vote of 71 to 4. (Congressional Record, Vol. 65, pt. 7, pp. 6377-6378, 6460.)

This amendment so placed in the Senate bill had, of course, been thoroughly debated as the result of Senator Shortridge's effort to have it adopted; hence the understanding of its purpose by the various Senators who eventually voted for it must have been gained, largely at least, from the detailed statement made to the Senate by the original proponent of the amendment. Therefore, Senator Shortridge's explanation is peculiarly pertinent and significant. On April 7, 1924, in the course of a lengthy statement, he asserted that he regarded the law which denied naturalization to Orientals as wise, and therefore thought it "unwise to admit into our country *to reside permanently, in mass,* races of people who may never become citizens of the Republic;" that the purpose was "to check the increase of a foreign, alien people, who can not become citizens of the United States, and whose presence provokes domestic trouble and may cause national estrangement." (Congressional Record, Vol. 65, pt. 6, pp. 5741-5743. Italics volunteered.) And continuing his explanation on the following day, he in-

dicated that the provision was directed against the building up in this country of "a large mass of people who may never become citizens"—that its intent was to prevent "these foreign peoples who may never become citizens" from building "up, as it were, an *imperium in imperio*—a state within a state, a country within a country." (Congressional Record, Vol. 65, pt. 6, p. 5806.)

Obviously Senator Shortridge had exactly the same understanding of the underlying object of the ineligible-to-citizenship excluding provision as was entertained by the Committee on Immigration of the House; and the Senate, like the House, when voting upon the provision, was fully and authoritatively informed that its purpose was to prevent the building up in this country of communities or "colonies" of aliens who may never become citizens by naturalization; that the object was to prevent this "mass" immigration and to prevent, so far as possible, the segregation into groups in this country of persons who still owed, and who must continue to owe, allegiance to foreign countries, and who, because of our well-established naturalization policy, could never be assimilated into our body politic.

Neither the Committee reports nor the record of the debates with regard to either the House or the Senate bill, so far as it has been possible to discover, contain any statement affirmatively indicating an intent to prevent American citizens from having their wives with them in the United States. Indeed, it would seem that the fact (alluded to more particularly hereinafter) that the proposed law was making adequate provision to prevent the separation of families of American citizen husbands, so far as alien wives and alien children generally were concerned, but, if taken in an absolutely literal manner,

was failing to apply the provision having that object [subdivision (a), section 4] to cases in which the American citizens' wives might be of the yellow race, was entirely overlooked in both the House and the Senate. So it may be stated with assurance that probably not one of those voting for the proposed measure realized at all the existence of this inconsistency in the literal terms of the measure.

However, it *is* clearly shown by the House Report upon the bill and by the debates that——

3. Congress intended the law to be a humane measure.

On the front page of its report (H. R. Rep. No. 350, 68th Cong., 1st Sess.) the House Committee on Immigration, *in enumerating for the information of the House membership the things accomplished by the bill*, not only stated "The bill * * * carries numerous sections to lessen the hardships of immigrants," but asserted *specifically and unqualifiedly* that "The bill * * *exempts *wives*, children under 18, and parents over 55, of *American citizens*." A similar statement had been made when the first bill (H. R. 6540) was reported (H. R. Rep. No. 176, 68th Cong., 1st Sess., p. 2). And after its second bill (H. R. 7995) had been passed by the House and the Senate bill (S. 2576) had been passed by the Senate, and the two referred to a Committee of Conference, the managers on the part of the House reported to that body that the bill had been changed "by limiting the 'relative' clause to wives and children of American citizens." (H. R. Rep. No. 716.) In none of the reports was there any statement of intention not to exempt wives belonging to

Oriental races as well as all other alien wives of American citizens. And certainly, with these authoritative statements before them to the effect that the bill exempted all the wives of all American citizens, every member must have believed that the bill did not, and must have intended that the law should not, make any distinction in its exemptions between wives of citizens who happened to be of a yellow race and wives who happened to be of a white or black race, or any distinction in the privileges it recognized between American citizens of those respective races.

Chairman Johnson of the House Committee, in explaining the purpose of the bill, pointed out on the floor of the House that one of the main purposes of the bill was *to prevent the separation of members of families.* (Congressional Record, Vol. 65, pt. 6, p. 5661.) He also asserted that there had been "provided many paragraphs to reduce the hardships of those that come as immigrants." (Ibid., p. 5649.) And Senator Reed of Pennsylvania, who was the author and manager on the floor of the Senate bill, also emphasized the humane objects of the measure. (Congressional Record, Vol. 65, pt. 6, pp. 5466-5467.) Senator Colt, then Chairman of the Senate Committee on Immigration, in explaining the purposes of the bill, also called attention to the general objects of humanity which Congress had in view. (Congressional Record, Vol. 65, pt. 6, p. 5411.) And while the bill was under debate in the Senate, on April 18, 1924, Senator Spencer introduced an amendment, which was adopted, and which now forms the proviso to section 14 of the law, which further demonstrates the view of Congress that humanity should prevail to as full an extent as possible in the operation of the immigration laws. (Ibid., pt. 7, p. 6642.)

In connection with the foregoing, it is worthy of note that each of the three District Courts which have so far considered the question here at issue, including the court which decided this case below, have reached the conclusion that if the law is reasonably viewed, its main object taken into consideration, and its declared general humane purposes given their proper weight, the conclusion must be reached that Congress did not intend by section 13 (c) to put an end to the long-existing policy and practice of admitting the Chinese wives of American citizens. [*Ex parte Goon Dip, et al.*, 1 Fed. (2d), 811, 813; *Ex parte Chiu Shee*, 1 Fed. (2d), 798, 799-800; *Ex parte Chang Chan, et al.*, 2 Fed. (2d), 995, 998-999.]

4. The construction for which the Government contends would result, not in effectuating, but in hindering, the attainment of the main object of the law.

It is well known that one of the chief reasons why foreigners congregate in colonies within this country is because they cannot, will not, or do not become citizens—do not become in a real sense a part of our body politic, having the same rights, privileges, and civic ambitions and desires as our own citizens. With such people as the Chinese and Japanese, who cannot under our laws become naturalized here, the impossibility of acquiring citizenship increases and accentuates the danger constituted of these "colonies." The converse, generally, of this situation is, of course, that where aliens can and do become citizens the danger arising from their congregation in foreign "colonies" is measurably reduced.

While Chinese can not be naturalized in our courts, many Chinese are citizens, either through birth in this

country (*United States vs. Wong Kim Ark,* 169 U. S., 649), or through birth abroad to fathers who are American citizens (section 1993, Revised Statutes), and such citizens are entitled to exactly the same rights, privileges, and immunities as are citizens of other racial extraction. The new immigration law does not change this situation.

As a practical proposition, this may be stated with certainty: If, by giving this statute literal effect, Chinese who are American citizens are prevented from bringing their Chinese wives into the United States, many of them will, notwithstanding the great inconvenience and expense involved, rear families in China. The children born to them there will, of course, be American citizens; and, while the literal application of the law will operate in practice to keep those children out of the country of their own and their fathers' citizenship and will separate them almost constantly from their fathers until they are well matured, they will always be eligible to enter this country, and in most instances will enter, on nearing or reaching maturity.

Which is the sounder policy and the one comporting most closely with the underlying purpose of the statute under discussion: To create a situation under which Chinese born into a status of American citizenship shall necessarily be reared in foreign communities and under foreign influences and then be admitted to the United States after their habits, ideas, and ideals of life have been formed; or to follow a course which will result either in those children actually being born on American soil or in their being permitted to join their fathers, along with their mothers, while still of tender years? Would not the first course necessarily result in forcing into the very alien "colonies" the building up of which the law is in-

tended to prevent of these Chinese born into citizenship and making them, although technically citizens, to all intents and purposes foreigners within our midst? And would not the liberal, reasonable, and humane construction of the statute here contended for tend to make real Americans out of these citizens, whether born abroad or here, and correspondingly to discourage the segregation of such citizens into "colonies" to all intents and purposes foreign? All history and experience answer in the affirmative.

The two District Courts which have considered this phase of the matter have agreed in the view that the admission of the Chinese wives of American citizens could not interfere with the attainment of the main object of the law. [*Ex parte Chiu Shee*, 1 Fed. (2d), 798-799; *Ex parte Chang Chan, et al.*, 2 Fed (2d), 995, 998.]

5. The construction contended for by the Government would produce unintended, absurd, oppressive, discriminatory, and inhumane results.

The husbands of these petitioners, having been born in the United States, where their parents were residing at the time of their birth and where such husbands now reside, not only are themselves citizens (*United States vs. Wong Kim Ark, supra*), but any children who may be borne to them by the respective petitioners, no matter where the birth may occur, will also be citizens of the United States (section 1993, Revised Statutes). Therefore, some of the absurd, oppressive, discriminatory, and inhumane results, none of which it is thought could have been intended by Congress, of construing this law as excluding the Chinese wives of American citizens would be the following:

(a) The setting aside of the principle of law that the domicile of the husband is that of the wife (*Tsoi Sim vs. United States,* 116 Fed., 920, 923, citing *Anderson vs. Watts,* 138 U. S., 694, 706), and the denial to an American citizen of the right of having his wife with him, together with the requirement that the wife shall forever remain in a foreign country. The only way of avoiding such ***permanent separation*** would be for the husbands of petitioners to submit to what in effect would be their own banishment.

(b) When children are born to petitioners, although they will be born into American citizenship and at birth acquire the right of immediately entering the United States, such children will not be able to exercise that right and their fathers will not be able to enjoy the natural right of having their children with them otherwise than upon the penalty of separating the children from the mothers, as the mothers must permanently remain outside this country.

(c) Under an exception to the quota-visa provisions [section 4 (d)], made by reference also an exception to the ineligible-to-citizenship provisions, Congress has humanely provided that aliens, of whatever race, who are ministers or priests, or professors or teachers, may bring into the United States their *alien* wives or their *alien* children. The separation of these *alien* wives and *alien* children from their *alien* husbands and fathers, or of the *alien* children from their *alien* mothers, is guarded against. It would certainly seem an absurdity to impute to Congress an intention to be more humane with respect to *aliens,* whether men, women, or children, than with respect to *citizens.* Can it be supposed that Congress ever intended that the law should have the effect of sep-

arating wives from their *citizen* husbands and of making it impossible for *citizen* children to join their *citizen* fathers without leaving their mothers in foreign countries?

(d) Section 4 of the act contains a provision reading as follows:

> "Sec. 4. When used in this Act the term 'non-quota immigrant' means——
>
> "(a) An immigrant who is the unmarried child under 18 years of age, or the wife, of a citizen of the United States who resides therein at the time of the filing of a petition under section 9; * * *."

Of course, as this law relates to aliens and can not in any manner affect United States citizens, the above quoted provision refers to wives who are aliens and children who are aliens. As section 1993 of the Revised Statutes confers citizenship upon all children born abroad to American fathers, the only alien children of citizens are those born to fathers who at the time of their birth were aliens but who subsequently became naturalized, such children not having begun "to reside permanently in the United States." (Sec. 5, Act of March 2, 1907—34 Stat. L., 1228; Sec. 2172, Revised Statutes; *Zartarian vs. Billings,* 204 U. S., 170.) Therefore, the above quoted exception absolutely exempts from the quota-visa excluding provision *alien* women of white or black races, married to United States citizens resident in this country, and also absolutely exempts therefrom *alien* children of citizens who have acquired citizenship, not by *birth* within the United States, but by *naturalization* occurring subsequent to the birth of such children. Congress has, most humanely, made the literal terms of the statute a complete

safeguard against the separation of these *alien* women from their *citizen* husbands and of these *alien* children from their fathers who are *naturalized* citizens.

Could anything be more unreasonable or absurd than to believe that Congress intended to be more humane with regard to citizens who are of *white or black races* than with regard to those who are of a *yellow race,* or to be more regardful of the rights and family love of men who are citizens *by naturalization* only than of those of men who are *native born citizens?*

(e) So desirous have we been to insure that discriminations shall not be made on grounds of race or color between citizens of the United States that we have incorporated in our Constitution a provision to the effect that none of the States shall abridge the privileges or immunities of United States citizens, or deny them the equal protection of the laws (Article 14, section 1). Can we suppose that Congress intended by the enactment of this law to have the Federal Government, in the exercise of its control over immigration, say to our white and black citizens, "You are as a United States citizen entitled to the privilege of having your wife here with you whatever her nationality may be and all children she may have borne to you, whatever their ages, she may bring with her;" and at the same time say to our citizens who happen to be of a yellow race, "If you marry a foreign woman of your own race and color you can not enjoy the privilege of having her live with you, unless you will banish yourself from the country of your birth and take up your residence in the foreign place where she is, and no matter how many children she may have borne you, nor what their ages may be, they cannot live here with you otherwise than upon separating from the mother?

6. There are ample judicial precedents for construing immigration laws in the manner urged.

It is not believed that, during the entire period of over thirty years during which our present system of Chinese exclusion has been in force, the administrative branch of the Government has ever denied the right of an American citizen of the Chinese race to have his wife with him in the United States under such exclusion laws. See Treasury decision No. 22551, dated October 19, 1900, Treasury decisions January-December, 1900, Vol. 3, quoted in the decision of the Circuit Court of Appeals, Ninth Circuit, of May, 1902, in *Tsoi Sim vs. United States,* 116 Fed., 920, 925. But in 1902 an Immigration Inspector brought about the arrest of a Chinese woman, who had been residing in the United States during the registration period, but who had failed to register under the Chinese Exclusion Act of 1893, and who, after the expiration of the registration period, had married an American citizen. It is believed that this is the only case of the kind of record. The Circuit Court of Appeals gave very careful consideration to the matter and ordered the woman released on habeas corpus. It is clear from the court's decision that it fully realized that there was in the Chinese exclusion law no exception, among the numerous exceptions enumerated therein, which could be regarded as affirmatively exempting the Chinese wife of an American citizen. But the court held that it would be unreasonable, unjust, and oppressive to give the statute literal application. It supported its conclusions in that regard with the quotation already given from *United States vs. Kirby,* and with references to some of the other cases to which attention is herein directed. (*Tsoi Sim vs. United States,* 116 Fed., 920, 926-927.)

It is also clear from this decision that, had it not been for the fact that the woman had married an American citizen, the court would have ordered her deportation; so that the decision, in effect, adds a class to the list of exempts specifically set up in the statutes. That case and the case at bar correspond in every substantial respect. The laws under which Tsoi Sim's deportation was attempted were composed of general provisions requiring exclusion or deportation of Chinese persons and of special exceptions in favor of what came to be known as the "exempt classes." The court could find nowhere in those laws an exception which made the Chinese wife of a citizen an exempt. But the court looked into the reasons of the laws and considered the oppression, hardship, and inhumanity which would result from a literal interpretation. In the present case the law, in general terms, excludes persons ineligible to citizenship, and sets up special exceptions not directly or by specific reference including wives of citizens. The oppression, hardship, inhumanity of literal construction is just as apparent, and the main reason for the passage of the statute could not be furthered, but rather would be hindered, by literal construction. In the Tsoi Sim case the court referred to the natural and inherent right of a man to have his wife with him in the place of his domicile, and to the general principle that the domicile of the husband is that of the wife, and held that in the absence of an affirmative law depriving a citizen of that natural right and evidencing an intent to set aside that general principle, the Chinese exclusion laws should be construed as not interfering with the admission of the Chinese wife of an American citizen. In the case at bar, as in that case, the question is not whether there is a law creating the right and conferring it upon the citi-

zen, *but whether there is any law taking an existing inherent and natural right away from the citizen.*

Another case which arose under the Chinese exclusion laws and well illustrates the point here made is *Lau Ow Bew vs. United States,* 144 U. S., 47, 59. Section 6 of the Exclusion Act of 1882 as amended by the Act of 1884 (23 Stat. L., 115) in terms required that "every Chinese person, other than a laborer * * *, who shall be about to come to the United States," should obtain a particular kind of certificate, which certificate should be "the sole evidence permissible on the part of the person so producing the same to establish a right of entry into the United States." This Court, after pointing out that it is a well established principle that statutes should receive a sensible construction, examined the reasons for the law, and held that Chinese of the exempt classes domiciled in the United States and going abroad temporarily should be exempted from the operation of the statute although the law contained no exception in their favor. It held that the law ought to be given a sensible construction and that absurdity should be avoided, and if so considered, the conclusion must be reached that an exception was intended. The situation in the case at bar is not materially dissimilar.

By section 2 of the Chinese Exclusion Act of November 3, 1893 (28 Stat. L., 7), it was specified in terms that a merchant, for the purposes of the exclusion laws, must be "a person engaged in buying and selling merchandise, at a fixed place of business, which business is conducted in his name." But the courts promptly held, when the question came before them, that, the purposes of the law considered, it was not necessary for the merchant to conduct the business in his own name, but merely that his

name should appear in the partnership articles and that he must have a real interest in the business; that it would be unreasonable, in the light of the history and purpose of the legislation, notwithstanding the apparently plain words of the statute, to impute to Congress an intention to change the well-known Chinese custom of doing business under firm designations, especially as the purposes of the law could not be furthered by so doing. (*Lee Kan vs. United States,* 62 Fed., 914; *Tom Hong vs. United States,* 193 U. S., 517.)

And the case of *United States vs. Mrs. Gue Lim,* 176 U. S., 459, 464, and the cases therein cited with approval (particularly *In re Chung Toy Ho,* 42 Fed., 398) constitute a precedent in two ways for construing immigration laws reasonably and in accordance with their purposes. The Treaty of 1880 (*22* Stat. L., 826), Article II, provided for the admission to the United States of teachers, students, merchants, and travelers, and their body and household servants, without specifying that the wives and children of such exempts might also be admitted; while the acts passed in execution of that treaty specified that all persons claiming to be members of such exempt classes must present, as the only permissible evidence of status, a certificate issued by the Chinese Government. But this Court and the lower courts held that it would be unreasonable to suppose that the parties to the treaty intended that merchants might come in and bring their servants with them and not also bring their wives and dependent children; and that, the reasons and purposes of the statute not so requiring, although the letter of the statute did, it would be unreasonable to hold that the wives and minor children of merchants had to procure from the Chinese Government the specified certi-

ficate of their exempt status—that evidence of their relationship to the merchant must, in reason, be regarded as sufficient to justify their admission.

The situation with respect to the case at bar is quite similar to that which existed in the Gue Lim case. By the new act Congress has left section 1993 of the Revised Statutes in full force, so that all children born in China to American citizen fathers must be admitted. While Congress has not placed in the law any provision which could be regarded as affirmatively excluding, by section 13 (c), the Chinese wives of American citizens, it has failed to place in the law an exception affirmatively granting them the right of admission. Is it not quite as unreasonable in this connection, as it was in the other, to suppose that it was intended that exclusion should occur? Can it reasonably be contended, especially with respect to an act the avowed purposes of which are of a humanitarian character, that Congress intended to create a situation in which it would be necessary to admit the children of American citizens, no matter how young and helpless they may be, and at the same time permanently to exclude their mothers? The treaty and acts together, if given literal effect, would have required that every Chinese person, without regard to age or relationship to other exempts, must be provided with a certificate as a condition precedent to admission; but the courts held that the law should not be construed literally because to do sc would produce unreasonable results. In the case at bar, such a construction as that contended for by the Government would produce, not only unreasonable, but oppressive and inhumane results, and, in doing so, would in no sense further, but rather would impede, the main object of the legislation.

But the precedents upon this subject are not confined to cases arising under the Chinese exclusion laws, nor to cases in which a liberal construction was placed upon the satutes because to do otherwise would cause hardship or suffering.

The original contract labor law of 1885 (23 Stat. L., 332) prohibited the importation of any alien "to perform labor or service of any kind in the United States;" but contained exceptions in favor of "professional actors, artists, lecturers, singers, and domestic servants." From time to time, as this law was reenected into the various immigration statutes, additions were made to this list of specifically enumerated exceptions.

In 1892 the original act came before this Court in connection with the case *Church of the Holy Trinity vs. United States,* 143 U. S., 457. This Court held that there was no doubt the act of the church in importing a pastor from England was within the letter of the law, which referred not only to labor but also to service. This Court also conceded that the incorporation into the statute of a list of exceptions tended to strengthen the idea that every other exception was to be excluded. Nevertheless, it held that it would be unreasonable to suppose, considering the history of the legislation, the objects it was intended to accomplish, and the fact that the American people are a religious people, that Congress intended that the law should be given any such literal construction as had been placed upon it by the administrative officers who excluded the pastor and by the lower court which had affirmed that exclusion. Thus, in effect, the decision read into the statute an exception in favor of ministers of the gospel.

Notwithstanding the fact that each time it reenacted the contract labor provisions Congress continued its original method of excluding by general broad provisions and inserting a list of exceptions, in which from time to time it incorporated additional classes, the courts have continued, ever since this Court handed down its decision in the Holy Trinity Church case, so to construe the alien contract labor provisions as to add to the specifically enumerated exceptions other classes which it had not occurred to Congress to include therein. See the following:

United States vs. Gay (95 Fed., 226, C. C. A., 7th Cir.), holding that a window dresser imported under contract is not a contract laborer.

Scharrenberg vs. Dollar Steamship Company (229 Fed., 970, C. C. A., 9th Cir.), holding that a seaman imported under contract for employment in foreign trade is not a contract laborer; affirmed by the Supreme Court (245 U. S., 122), ***which emphatically reaffirmed its holding of thirty years previously in the Holy Trinity Church case*** (page 126).

Tatsukichi Kuwabara vs. United States (260 Fed., 104, C. C. A., 9th Cir.), holding that a Japanese imported under a contract covering the teaching of the Japanese language, history, geography, and arithmetic is not a contract laborer.

United States vs. Union Bank of Canada, and *United States vs. Royal Dutch West India Mail Company* (262 Fed., 91, C. C. A., 2d Cir.), in effect reading into the law additional exceptions in favor of a bank bookkeeper and a steamship office clerk.

Ex parte Aird (276 Fed., 954, D. C., E. Dist. Pa.), holding that a draftsman possessing and applying in his work learning and skill as a marine engineer was admissible under the contract labor provisions either as a member of a recognized profession or as a person whose work was essentially

mental, not manual, although not enumerated among the exempt classes.

Ex parte Gouthro (296 Fed., 506, D. C., E. Dist. Mich.), to the effect that a telegraph operator imported from Canada is not a contract laborer, although not included in the list of exempts placed in the law by Congress.

In none of these cases expanding the exceptions to the alien contract labor provisions did there obtain reasons nearly as strong, especially from the point of view of avoiding inhumanity and oppression, as the reasons which obtain in the present case. In most of the cases the party really aggrieved was some employing corporation; the alien directly involved not having any particular claim upon the attention of the court. Take, for example, the Union Bank and Royal Dutch Mail cases: These clerks, absolutely within the literal terms of the statute, were brought here by New York branch houses of foreign corporations from their foreign offices, simply to suit the convenience of their own business. There would have been nothing inhumane or oppressive in requiring them to go back to their employment in the foreign houses. And the same thing was true of the telegraph operator involved in the Gouthro case—no inhumanity toward her would have been involved in requiring her to return to the position in Canada from which the telegraph company was transferring her.

But in the present case the American citizen husbands, their wives, and their children who may hereafter be born into American citizenship will suffer grievous hardship and oppression if the law is given literal application, and, at the same time, the real purpose of the statute will in no sense or degree be furthered.

7. Certain decisions which do not constitute precedents for, but are distinguishable from, the case at bar.

The decisions of this Court in *Low Wah Suey vs. Backus,* 225 U. S., 460, and *Chung Fook vs. White,* 264 U. S., 443, are clearly distinguishable from the case at bar.

It is one thing to say to all American citizens, whatever their race or color, "You can not bring into the United States a foreign woman as your wife if that woman is afflicted with some disease which will be a menace to any community in which she may settle or if she is of such an immoral character that she will be likely to destroy the morals of those with whom she may come in contact here." It is quite another thing to say to American citizens of a particular race or color, and not to American citizens generally, "You can not bring an alien woman into this country as your wife, no matter how sound that woman may be, morally, mentally, and physically, unless she belongs to a race members of which are permitted by our naturalization laws to become citizens."

It is one thing to construe strictly statutes the clearly expressed and historically known purpose of which is to protect the health and morals of the inhabitants of the country, even though such strict construction works hardship to individuals—aliens or citizens. It is quite a different thing to place such a construction upon a statute, even if it can be so construed under its literal and technical terms, when the history of the legislation shows that its underlying purpose was such that it could not be furthered; but rather would be impeded, by such construction, and when it is apparent that the observance of the

letter of the law and the disregard of its spirit will result in the harshest kind of discrimination, on race or color lines, between citizens of the United States, in the visiting of most severe hardships upon men, women, and little children, and in oppression and inhumanity—in the production of results which it is inconceivable that the legislature intended to produce.

Every nation must guard the morals and health of the communities within its boundaries; and the fact that, in order efficiently to do so, laws must be passed which in individual cases cause hardship is a circumstance which must give way to the general good. All citizens, whatever their race or color, must be willing, for the general good, to submit to the operation of such safeguarding laws. But where the object of the law is simply to prevent the building up in this country of "colonies" consisting of people who can never become citizens, and where that object would be hindered, rather than furthered, by keeping out of the country women who are the wives and the mothers of American citizens and who, if admitted, while not able actually to be naturalized themselves, would to all intents and purposes be but members of American citizen families, there is no reason for giving to the law such literal application as was properly given to it in the two decisions mentioned, but, on the contrary, every reason for giving to it a liberal construction. See in this connection *Ex parte Chiu Shee*, 1 Fed (2d), 798, 800.

The decision of this Court in *Zartarian vs. Billings*, 204 U. S., 170, is distinguishable from the case at bar for reasons similar to the foregoing.

And the recent decision of this Court in *Commissioner of Immigration vs. Gottlieb*, 265 U. S., 310, is also to be

distinguished from the case now under discussion. That decision arose under a law the terms of which were specific and clear, and the decision of the lower court had been based upon a misapprehension of one of the provisions of a previous law which it was construing *pari materia* with the later statute. The law there in point, moreover, was the act in which for the first time in the history of immigration legislation a quota system was provided, and the exceptions and preferences to be regarded in the operation of the quota system thereby devised were enumerated in such manner that there could be no question that Congress intended them to be exclusive of all other exceptions or preferences. That act, therefore, created and dealt with a new situation, and could not be considered as reaching back to a previously existing situation with the object either of modifying it or continuing it in force. But the law here involved, while creating a new system of exclusion, the ineligible-to-citizenship system, brings under that system a race of aliens members of which have heretofore been excluded by the Chinese exclusion laws, and in doing so provides specifically that the exclusion laws shall be kept in full force and effect [sections 25 and 28 (g)]; the exceptions enumerated in such law being given by cross-references only, and in such manner as, when the purpose and history of the legislation are taken into consideration, affords ample reason for believing that such exceptions were not intended to be exclusive of all others. Furthermore, there was involved in that case no question of the rights of citizens—no question of action which, in effect, would discriminate against one class of citizens as contrasted with two other classes. Again, in that case the hardship involved was of a temporary nature only, as refusal to permit the wives

and minor children of aliens admitted as non-quota to be admitted along with the husbands and fathers necessitated only that the wives and children should provide themselves with quota visas before embarking for this country, and, if the quota of their native land was exhausted, should wait for such brief time as was necessary to have a quota for another year come into existence; whereas in the case at bar, as already pointed out, refusal to permit the wives of American citizens to enter, while admitting the citizens and their citizen children, would have the effect of keeping the wives out of this country forever—of permanently separating them from their husbands, and possibly also from their small children, unless their husbands should be willing to submit to what in effect would amount to their own banishment.

8. Sections 5 and 25 do not affect petitioners' status.

So much of section 5 as needs any discussion reads as follows:

> "An alien who is not particularly specified in this Act as a non-quota immigrant or a non-immigrant shall not be admitted as a non-quota immigrant or a non-immigrant by reason of relationship to any individual who is so specified or by reason of being excepted from the operation of any other law regulating or forbidding immigration."

Clearly this provision does not apply to petitioners. They could not be excluded either as quota or non-quota immigrants. If excluded at all, they would have to be excluded as persons ineligible to citizenship. None of

them is an alien "who is not particularly specified in this act as a non-quota immigrant or a non-immigrant;" for, should they be regarded, for the purposes of argument, as being reached at all by the quota-visa provisions, they would be persons particularly specified as exempt from the quota provisions by subdivision (a) of section 4. They do not seek to be exempted by reason of relationship to any individual specified in the act as a non-immigrant or non-quota immigrant; but they seek exemption by reason of being the wives of United States citizens, persons to whom such description could not by any stretch of the imagination apply. Nor do they seek admission as "being excepted from the operation of any other law regulating or forbidding immigration;" for there is no law which actually contains any exception in favor of wives of American citizens, every immigration law ever passed being silent on that subject, and admission having heretofore occurred because of that very silence and because it was deemed unreasonable, in the absence of affirmative provisions of law so requiring, to suppose that Congress intended to exclude them and to deprive citizen husbands of the natural right of having their wives with them.

So much of section 25 as needs to be mentioned reads as follows:

> "An alien, although admissible under the provisions of this Act, shall not be admitted to the United States if he is excluded by any provision of the immigration laws other than this Act, and an alien, although admissible under the provisions of the immigration laws other than this Act, shall not be admitted to the United States if he is excluded by any provision of this Act."

As the women involved in the present case concededly are not excluded by any provision of previous immigration laws, of course the first clause of the above quoted provision can be laid aside without further comment. The second clause would be applicable to petitioners, but only to the extent of more emphatically expressing the purpose to exclude, if it could be shown that the purpose of section 13 (c) was to exclude the Chinese wives of American citizens simply because they are ineligible to citizenshp. But it has already been shown that so to construe said section would be unreasonable.

The fact that, in origin and historically, the above quoted provisions of sections 5 and 25 had an object wholly distinct from any purpose of either broadening or emphasizing the effects of section 13 (c) has been stated and discussed in detail in the brief submitted by the writer in case No. 769, *Cheung Sum Shee, et al., vs. Nagle,* now pending; and the liberty is taken of referring to that brief, pp. 17-21.

POINT III

The certified questions should be answered in the negative.

Respectfully submitted,
A. WARNER PARKER,
Amicus Curiae.